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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,692	09/23/2003	Thomas Jeffrey Clark	T103 1470.2	4313
26158	7590	08/13/2004	EXAMINER	
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC			HABTE, KAHSAY	
P.O. BOX 7037			ART UNIT	
ATLANTA, GA 30357-0037			PAPER NUMBER	

1624

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/668,692	CLARK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kahsay Habte, Ph. D.	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-60 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-60 (in part), drawn to azabicyclo [2.2.1] compounds, composition, and method of use, classified in class 544, subclasses 182, 242, 333; in class 546, subclass 276.7; and in class 548, subclasses 243, 245, 246, 247, 248, and 452.
  - II. Claims 1-60 (in part), drawn to azabicyclo [3.2.1] compounds, composition, and method of use, classified in classes 544, 546, 548 and subclasses various.
  - III. Claims 1-60 (in part), drawn to azabicyclo [4.2.1] compounds, composition, and method of use, classified in classes 540, 544, 546, and 548, subclass various.
  - IV. Claims 1-7 (in part), 11-27 (in part), 31-47 (in part), and 51-60 (in part), drawn to others, classified in class various, subclass various.

The inventions are distinct, each from the other because of the following reasons:

Groups I drawn to azabicyclo [2.2.1] compounds, simple composition, and method of use, are different from Groups II-IV. The size of the rings are different one from the other i.e. [2.2.1], [3.2.1], [4.2.1]. For example, Group I (azabicyclo [2.2.1]) are heptane compounds and contain a five membered ring on the left side of the bicyclic ring that is not present in Groups II and III. Group II (azabicyclo[3.2.1]) are octane compounds and

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contain a 6 membered ring on the left side of the bicyclic ring that is not present in Groups I and III. Group III (azabicyclo[4.2.1]) are nonane compounds and contain a 7 membered ring on the left side of the bicyclic ring that is not present in Groups I and II. Group IV that is drawn to others and is different from Groups I-III, because it has (azabicyclo[3.3.1]) and (azabicyclo[2.1.1]) ring system that is not present in Groups I-III. Groups I-IV that are drawn to different ring system i.e. [2.2.1], [3.2.1], [4.2.1], and [3.3.1] or [2.1.1] are different one from the other. Groups I-IV are directed to group of compounds that do not belong to the same recognized class of chemical compounds in the art, and references anticipating one invention, would not render obvious the others. Each group have a different class and subclass and are made and used independently of each other and could support separate patents. One skilled in the art would not consider such diverse groups equivalents of each other.

Because these inventions are distinct for the reasons given above and have acquired separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Carl Massey on July 26, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


Note that claims 66-70 are renumbered as claims 56-60.

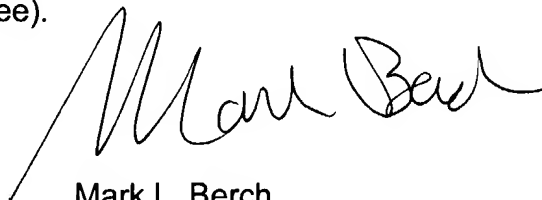
**Conclusion**

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kahsay Habte, Ph. D. whose telephone number is (571) 272-0667. The examiner can normally be reached on M-F (9.00AM- 5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on (571) 272-0674, if there is no reply within 24 hours, James Wilson (Acting SPE) can be reached at (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kahsay Habte, Ph. D.  
Examiner  
Art Unit 1624

  
Mark L. Berch  
Primary Examiner  
Art Unit 1624

KH  
August 10, 2004